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INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of March 15, 1980

among

NATIONAL STEEL CAR CORPORATION, LIMITED,

NORTH AMERICAN CAR CORPORATION  
(Canadian Railcar Division)

and

LASALLE NATIONAL BANK,  
as Agent

750 ONE HUNDRED-TON  
STEEL COVERED HOPPER CARS

AGREEMENT AND ASSIGNMENT dated as of March 15, 1980 among NATIONAL STEEL CAR CORPORATION, LIMITED (hereinafter called "Builder"), NORTH AMERICAN CAR CORPORATION (Canadian Railcar Division) (hereinafter called "NAC") and LASALLE NATIONAL BANK, as Agent (hereinafter, together with its successors and assigns, called "Assignee") under a Finance Agreement dated as of the date hereof (hereinafter called the "Finance Agreement") among EXCHANGE NATIONAL BANK OF CHICAGO, not in its individual capacity but solely as Trustee (hereinafter, together with its successors and assigns, called "Vendee") under a Trust Agreement dated as of the date hereof with SECURITY PACIFIC EQUIPMENT LEASING, INC. (hereinafter called "Owner"), THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (hereinafter called "Lessee"), Owner and the institutions named in Annex A thereto (hereinafter, together with their successors, assigns and transferees, called "Investors").

WHEREAS, Builder, NAC and Vendee are entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the "Conditional Sale Agreement") covering the sale and delivery by Builder to NAC, and the sale and delivery by NAC to Vendee, on the terms and conditions therein set forth, of the railroad equipment described in Annex B thereto (hereinafter called the "Equipment");

WHEREAS, Vendee and Lessee are entering into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the "Lease") providing for the lease of all the units of the Equipment, or such lesser number as are delivered, accepted and settled for under the Conditional Sale Agreement; and

WHEREAS, in order to provide further security for the payment of indebtedness under the Conditional Sale Agreement and as an inducement to Investors to invest in the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement), Vendee and Assignee are entering into an Assignment of Lease dated as of the date hereof (hereinafter called the "Lease Assignment") assigning to Assignee for security purposes certain of Lessor's rights in, to and under the Lease to which Lessee will consent pursuant to the Consent dated as of the date hereof; and

WHEREAS, NAC desires to assign to Assignee the security interest of NAC under the Conditional Sale Agreement and Builder and NAC desire to assign to Assignee certain other rights, remedies and interests of Builder and NAC, respectively, thereunder upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the sum of One Dollar and other good and valuable consideration paid by Assignee to Builder and NAC, respectively, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto do hereby agree as follows:

SECTION 1. NAC hereby assigns, transfers and sets over unto Assignee, its successors and assigns:

(a) All the right, title and interest of NAC in and to each unit of the Equipment as and when payment is made to NAC as provided herein and in the Conditional Sale Agreement;

(b) All the right, title and interest of NAC in and to the Conditional Sale Agreement (except the right to deliver the Equipment to Vendee; the right to receive the NAC Purchase Price (as defined in the Conditional Sale Agreement); and reimbursement for taxes paid or incurred by NAC) and in and to any and all amounts which may be or become due or owing under the Conditional Sale Agreement on account of the indebtedness in respect of the Vendee Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from Vendee under the Conditional Sale Agreement other than those hereinabove excluded; and

(c) Except as limited by subparagraph (b) of this paragraph, all NAC's rights, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse, however, against NAC for or on account of the failure of Vendee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Assignment shall not subject Assignee to, or transfer or pass, or in any way affect or modify, the obligations of Builder or NAC to sell and deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to their respective warranties and agreements referred to in Article 13 thereof or relieve Vendee from its obligations to Builder or NAC contained in Articles 2, 3, 4, 6 and 13 thereof, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment pursuant to the provisions of Article 14 thereof, all obligations of Builder or NAC to Vendee with respect to the Equipment shall be and remain enforceable by Vendee, its successors and assigns, against and only against Builder and NAC, as the case may

be. In furtherance of the foregoing assignment and transfer, NAC hereby authorizes and empowers Assignee, in Assignee's own name or in the name of Assignee's nominee, or in the name of or as attorney hereby irrevocably constituted for NAC, to ask, demand, sue for, collect, receive and enforce any and all sums to which Assignee is or may become entitled under this Assignment and compliance by Vendee with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of Assignee.

SECTION 2. Builder covenants and agrees that it shall construct the Equipment in full accordance with the Conditional Sale Agreement. Builder and NAC severally agree to deliver the Equipment upon completion to NAC and Vendee, as the case may be, or their duly appointed agent in accordance with the provisions of the Conditional Sale Agreement; and that notwithstanding this Assignment, it will perform and fully comply with each and all of the covenants and conditions of the Conditional Sale Agreement to be performed and complied with by Builder or NAC, as the case may be. Builder further covenants and agrees that it will warrant to Assignee, NAC, Vendee and Lessee, and NAC further covenants and agrees that it will warrant to Assignee, Vendee and Lessee, that at the time of its respective delivery of each unit of the Equipment under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and that title to such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights of Vendee, Assignee, Lessee and persons claiming by through or under any of them; and Builder and NAC each further covenants and agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by such party under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of Vendee, Lessee, Assignee or persons claiming by, through or under any of them. Builder will not deliver any of the Equipment to NAC, and NAC will not deliver any of the Equipment to Vendee, or their duly appointed agent under the Conditional Sale Agreement, until the Conditional Sale Agreement and the Lease have been filed and recorded in accordance with 49 United States Code §11303(a).

SECTION 3. Builder and NAC severally covenant and agree with Assignee that in any suit, proceeding or action brought by Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Vendee Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, Builder and

NAC will severally indemnify, protect and hold harmless Assignee and/or Vendor, as appropriate, from and against all expense (including without limitation counsel fees), loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever claimed by Vendee or Lessee arising out of a breach by Builder or NAC, as the case may be, of any obligation with respect to the Equipment or the manufacture, construction, sale, delivery or warranty thereof or arising by reason of any other indebtedness or liability at any time owing to Vendee, Assignee or Lessee by Builder or NAC, as the case may be. In the event of any such indemnification, Builder or NAC, as the case may be, will be subrogated to any claim of Assignee and/or Vendor against Vendee or Lessee, as the case may be, with respect to the matter indemnified against. Any and all such obligations shall be and remain enforceable by Vendee or Lessee or their respective successors and assigns against and only against Builder or NAC or their respective successors and assigns and shall not be enforceable against Assignee or any person or persons in whom title to the Equipment, or any unit thereof, or any of the rights of Builder or NAC under the Conditional Sale Agreement shall vest by reason of this Assignment or of successive assignments or transfers. Assignee will give notice to Builder and NAC of any suit, proceeding or action by Assignee herein described, and shall promptly move or take other appropriate action, on the basis of Article 14 of the Conditional Sale Agreement, to strike any defense, set-off, counterclaim or recoupment asserted by Vendee or Lessee therein; and if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, set-off, counterclaim or recoupment as a triable issue in such suit, proceeding or action, Assignee shall promptly notify Builder and NAC, as the case may be, of any such defense, set-off, counterclaim or recoupment asserted by Vendee or Lessee or its successors and assigns and thereafter give Builder or NAC, as the case may be, the right, at its expense, to compromise, settle or defend against such defense, set-off, counterclaim or recoupment.

Except in cases of articles or materials specified by NAC or Lessee and not manufactured by Builder and in cases of designs, systems, processes, formulae or combinations specified by NAC or Lessee and not developed or purported to be developed by Builder, Builder agrees to indemnify, protect and hold harmless NAC and Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against NAC and Assignee or their respective successors and assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any

patent or other right. Assignee will give prompt notice to Builder of any claim actually known to Assignee from which liability may be charged hereunder, and Builder shall have the right, at Builder's expense, to compromise, settle or defend against such claim. Builder and NAC severally agree that any amounts payable to it by Vendee or Lessee, or, in the case of Builder, by NAC, with respect to the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned to Assignee shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. Builder will cause to be plainly, distinctly, permanently and conspicuously marked on each side of each unit of the Equipment, at the time of delivery thereof under the Conditional Sale Agreement, in letters not less than one inch in height, the words:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTERSTATE COMMERCE COMMISSION."

SECTION 5. Subject to Article 3 of the Conditional Sale Agreement, Assignee, on each Closing Date as provided in Article 4 of the Conditional Sale Agreement with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to NAC an amount equal to the portion of the aggregate invoiced Vendee Purchase Price (as defined in said Article 4) thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to Assignee (with an executed counterpart to Vendee) on or prior to such Closing Date the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Sidley & Austin, in such number of counterparts as may be reasonably requested by said special counsel:

(a) A bill or bills of sale, dated such Closing Date, from Builder to NAC transferring and assigning to NAC all right, title and interest in the units of the Equipment in such Group and warranting to NAC, Assignee, Vendee and Lessee that at the time of delivery of such units under the Conditional Sale Agreement Builder had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature, except only the rights under the Conditional Sale Agreement, this Assignment, the Lease and the Lease Assignment, and covenanting to defend the title to such units against the demands of all persons whomsoever based on claims originating prior to the delivery of such units by Builder under the Conditional Sale Agreement;

(b) An instrument or instruments, dated such Closing Date, from NAC to Assignee transferring and assigning to Assignee NAC's security interest in the units of the Equipment in such Group and warranting to Assignee, Vendee and Lessee that at the time of delivery of such units under the Conditional Sale Agreement NAC had legal title to such units and good and lawful right to sell such units and that title to such units was free of all claims, liens, security interests and other encumbrances of any nature, except only the rights of Lessee, Vendee, Assignee and persons claiming by, through or under any of them, and covenanting to defend the title to such units against the demands of all persons whomsoever (except Lessee, Vendee, Assignee and persons claiming by, through or under any of them) based on claims originating prior to the delivery of such units by NAC under the Conditional Sale Agreement;

(c) A Certificate or Certificates of Acceptance with respect to the units of the Equipment in such Group as contemplated by Article 3 of the Conditional Sale Agreement and Section 2 of the Lease;

(d) An invoice or invoices of NAC to Vendee for the units of the Equipment in such Group accompanied by or having endorsed thereon a certification by Lessee as to its approval thereof;

(e) An opinion, dated such Closing Date, of counsel for Builder, addressed to Assignee, NAC, Vendee and Lessee, to the effect that the bill or bills of sale delivered pursuant to paragraph (a) above have been duly authorized, executed and delivered by Builder and are valid and effective to vest in NAC all right, title and interest in the units of the Equipment in such Group, and such units, at the time of delivery thereof by Builder under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (except only the rights under the Conditional Sale Agreement, this Assignment, the Lease and the Lease Assignment);

(f) An opinion, dated such Closing Date, of counsel for NAC, addressed to Assignee, Vendee and Lessee, to the effect that the instrument or instruments delivered pursuant to paragraph (b) above have been duly authorized, executed and

delivered by NAC and are, together with the execution, delivery and due recordation of the Conditional Sale Agreement and this Agreement and the Settlement for the units of Equipment being settled for, valid and effective to vest in Assignee a valid and perfected security interest in the units of the Equipment in such Group at the time of delivery thereof under the Conditional Sale Agreement, and such units, at the time of delivery thereof by NAC under the Conditional Sale Agreement, were free from all claims, liens, security interests and other encumbrances (except only the rights of Vendee, Lessee, Assignee or persons claiming by, through or under any of them) arising from, through or under NAC;

(g) A receipt from Builder for the payment of the NAC Purchase Price for the Equipment in such Group as set forth in the invoice or invoices delivered pursuant to paragraph (d) above;

(h) A receipt from NAC for any payment (other than the payment being made by Assignee pursuant to this first paragraph of Section 5) required to be made on such Closing Date to NAC with respect to the Equipment in such Group, unless such payment is made by Assignee with funds furnished to it for that purpose by Vendee; and

(i) a receipt from a United States Custom broker evidencing payment, or provision therefor, of the Duty and payment of such broker's fees with respect to the Equipment in such Group, certified by an officer of NAC.

In giving the opinion referred to in paragraph (f) above, counsel for NAC need not express any opinion on any matter governed by the law of any jurisdiction other than the United States of America and the State of Illinois or as to any lien arising outside the United States of America and may rely on the representation and warranty of Builder contained in the third paragraph of Article 13 of the Conditional Sale Agreement.

The obligation of Assignee hereunder to make payment for any Group of Equipment is hereby expressly conditioned upon Assignee's having on deposit, pursuant to the terms of the Finance Agreement, sufficient funds available to make such payment. In the event that Assignee shall not make any such payment, Assignee shall reassign to NAC, without recourse to Assignee, all right, title and interest of Assignee in and to the units of the Equipment with respect to which payment has not been made by Assignee.



SECTION 6. Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from Vendee or Lessee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of Assignee hereunder.

SECTION 7. Builder hereby represents and warrants to NAC, Assignee and Vendee, and their respective successors and assigns, that the Conditional Sale Agreement and this Assignment were duly authorized by Builder and lawfully executed and delivered by it for good and valuable consideration; and, assuming the due authorization, execution and delivery thereof by the other parties thereto, the Conditional Sale Agreement and this Assignment are each a legal, valid and binding agreement of Builder enforceable against Builder in accordance with its respective terms (except as limited by any bankruptcy, insolvency, reorganization or other similar laws of general application affecting enforcement of creditors' rights) and is now in full force and effect without amendment thereto.

NAC represents and warrants to Builder, Assignee and Vendee, and their respective successors and assigns, that the Conditional Sale Agreement and this Assignment were duly authorized by NAC and lawfully executed and delivered by it for good and valuable consideration; and, assuming the due authorization, execution and delivery thereof by the other parties thereto, the Conditional Sale Agreement and this Assignment are each a legal, valid and binding agreement of NAC enforceable against NAC in accordance with its respective terms (except as limited by any bankruptcy, insolvency, reorganization or other similar laws of general application affecting enforcement of creditors' rights) and is now in full force and effect without amendment thereto.

Builder and NAC each severally agrees that:

(a) it will from time to time and at all times, at the request of Assignee or Vendee, or their respective successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned, transferred and set over to Assignee or intended so to be; and


(b) upon request of Assignee or its successors or assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of Builder or NAC, respectively, therein or in the Equipment.

SECTION 8. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by 49 United States Code §11303(a) and Section 86 of the Railway Act of Canada and such additional rights arising out of the filing, recording, registering or depositing, if any, of the Conditional Sale Agreement or this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded, registered or deposited and any rights arising out of the markings on the units of the Equipment.

SECTION 9. This Assignment may be executed in any number of counterparts, but the counterpart delivered to Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of March 15, 1980 for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.


IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Assignment to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunder affixed and duly attested, all as of the date first above written.

NATIONAL STEEL CAR CORPORATION,  
LIMITED

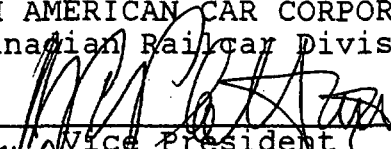
By   
Vice President

(Corporate Seal)

Attest:

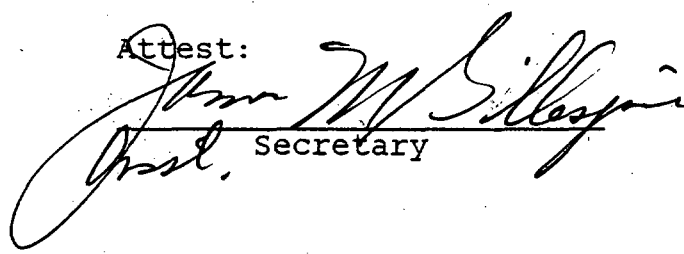
  
Secretary

NORTH AMERICAN CAR CORPORATION  
(Canadian Railcar Division)

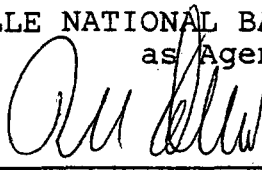
By   
Seymour Vice President

(Corporate Seal)

Attest:


  
John W. Gillespie  
Secretary

LASALLE NATIONAL BANK,  
as Agent

By   
Vice President

(Corporate Seal)

Attest:

  
Corporate Trust Officer

PROVINCE OF ONTARIO )  
 ) SS  
JUDICIAL DISTRICT )  
OF HAMILTON- )  
WENTWORTH )

On this 14<sup>th</sup> day of May, 1980, before me personally appeared Richard Cooke, to me personally known, who, being by me duly sworn, said that he is a Vice President of National Steel Car Corporation, Limited, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Joan M. H. [Signature]  
Commissioner for Taking Oaths

Notary Public

My commission expires  
\_\_\_\_\_

STATE OF ILLINOIS     )  
                              )  
COUNTY OF COOK        )     SS

On this 18 day of May, 1980, before me personally appeared H. Russell Platt, to me personally known, who, being by me duly sworn, said that he is a Semin Vice President of North American Car Corporation (Canadian Railcar Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Alexander J. Tushnet*  
Notary Public

(Notarial Seal)

My commission expires

8/14/82

STATE OF ILLINOIS     )  
                              ) SS.  
COUNTY OF COOK        )

On this 15<sup>th</sup> day of May, 1980, before me personally appeared L. L. WEBER, to me personally known, who, being by me duly sworn, said that he is a Vice President of LaSalle National Bank, that one of the seals affixed to the foregoing instrument is the corporate seal of said association and that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

*Susan J. Tsch*  
Notary Public

(Notarial Seal)

My commission expires

*August 14, 1982*

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment is hereby acknowledged as of March 15, 1980.

THE ATCHISON, TOPEKA AND  
SANTA FE RAILWAY COMPANY

By   
Vice President